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JUL 23 2007

OFFICE OF PETITIONS

In re Application of
Sooriyakumaran et al.
Application No. 10/0079,289
Filed: Feb. 19, 2002
Attorney Docket No. YOR920000693US2

: DECISION GRANTING PETITION

This decision is in response to applicants' "APPLICATION FOR PATENT TERM ADJUSTMENT" TIMELY¹ filed on April 13, 2007 requesting that the Office adjust the Patent Term Adjustment determination from 112 days to a determination of 556 days.

Applicant's request for PTA is **GRANTED to the extent herein indicated**. The Office will *sua sponte* adjust the PTA determination at the time of the mailing of the notice of allowance from 112 days to 603 days.

Applicants argue that the applicants are entitled to Office delays of 621 days under 37 CFR 1.702(a)(2) and concede 65 days of applicant delay under 37 CFR 1.704(b). Applicants failed to acknowledge the reduction of 61 days under 37 CFR 1.704(b) for the response to the final rejection being more than three months after the mailing of the final rejection.² Applicants argue that it was mailed with a certificate of mailing on November 9, 2006 within three months.

Applicants arguments have been considered and are persuasive to the extent herein discussed. The Office notes that applicants are entitled to 624 days of PTA under 37 CFR 1.702(a)(2). The Office notes that the reply to the restriction was filed on December 19, 2003 and the Office reply date was January 3, 2006. Accordingly, the Office had a 624 day delay for this time period under 37 CFR 1.702(a)(2). Applicants note that the Office delayed by a period of 157 days under 37 CFR 1.702(a)(1). Accordingly, the Office delay amounted to 781 days. Applicants concede the 65-day reduction under 37 CFR 1.704(b) for the submission of a response dated 6/7/2006. Applicants arguments failed to acknowledged the 52-day reduction under 37 CFR 1.704(c)(7) for the submission of a non-compliant response to the election requirement.³ Applicants argument as to the sixty-one day reduction is not persuasive because the Office notes that applicants reply stops the three month clock on date of receipt in the Office if applicant mails by certificate of

¹ Issue fee paid on May 23, 2007.

²The final rejection was mailed on 8/21/2006 and applicant replied on 1/29/2007.

³Applicant initially responded to a restriction requirement on 10/28/2006 and such requirement was not complete. The complete reply was filed on December 19, 2003 as determined by petition decision. Accordingly, the reduction began on October 29, 2003 and ended on December 19, 2003.

mailing and is treated differently from a mailing by express mail. See 37 CFR 1.703(f). Accordingly the reply date for PTA purposes, January 29, 2007. The overall amount of Office delay is 781 and applicantsdelay is 178. Total PTA delay at time of mailing of notice of allowance is 603 days.

After the mailing of this decision, the application will be forwarded to the Office of Patent Publications for a prompt issuance of the patent

Any additional PTA pursuant to 37 CFR 1.702(b) or 1.702(a)(4) will be added to the PTA at the time of the issuance of the patent and will be reflected in the issue notification letter that is mailed to applicants approximately three weeks prior to issuance of the patent.

Applicants have submitted the \$200.00 fee for this application. No additional fees are required.

Any questions concerning this decision should be directed to Kery A. Fries, Senior Legal Advisor, Office of Patent Legal Administration at 571-272-7757.

Kery Fries

Kery Fries
Senior Legal Advisor
Office of Deputy Commissioner
for Patent Examination Policy

CC: Copy of Adjusted Pair Calculation

Day : Friday
 Date: 7/20/2007

Time: 15:15:36

PALM INTRANET

PTA Calculations for Application: 10/079289			
Application Filing Date:	02/19/2002	PTO Delay (PTO):	536
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	424
Post-Issue Petitions:	0	Total PTA (days):	603
PTO Delay Adjustment:	491		

File Contents History						
Number	Date	Contents Description	PTO	APPL	START	
65	07/20/2007	ADJUSTMENT OF PTA CALCULATION BY PTO	491			
58	02/26/2007	MAIL NOTICE OF ALLOWANCE				
57	02/26/2007	MAIL EXAMINER'S AMENDMENT				
56	02/20/2007	ISSUE REVISION COMPLETED				
55	02/20/2007	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED				
54	02/20/2007	CASE DOCKETED TO EXAMINER IN GAU				
53	02/17/2007	EXAMINER'S AMENDMENT COMMUNICATION				
52	02/17/2007	NOTICE OF ALLOWABILITY				
51	12/22/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED				
50	02/15/2007	PARALEGAL TD ACCEPTED				
49	02/05/2007	DATE FORWARDED TO EXAMINER				
48	01/29/2007	AMENDMENT AFTER FINAL REJECTION		61	43	
47	01/29/2007	REQUEST FOR EXTENSION OF TIME - GRANTED				
46	12/22/2003	REFERENCE CAPTURE ON IDS				
45	12/22/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED				
44	12/22/2003	PRELIMINARY AMENDMENT				
43	08/29/2006	MAIL FINAL REJECTION (PTOL - 326)				
42	08/21/2006	FINAL REJECTION				
41	06/13/2006	DATE FORWARDED TO EXAMINER				
40	06/07/2006	RESPONSE AFTER NON-FINAL ACTION		65	38	
39	06/07/2006	REQUEST FOR EXTENSION OF TIME - GRANTED				
38	01/03/2006	MAIL NON-FINAL REJECTION	379		30	

37	12/27/2005	NON-FINAL REJECTION			
36	08/20/2004	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
35	10/27/2003	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
34	02/19/2002	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
33	08/20/2004	REFERENCE CAPTURE ON IDS			
32	08/20/2004	INFORMATION DISCLOSURE STATEMENT (IDS) FILED	0	30	
31	10/20/2005	DATE FORWARDED TO EXAMINER			
30	08/20/2004	RESPONSE TO ELECTION / RESTRICTION FILED	298	15	
29	10/20/2005	CASE DOCKETED TO EXAMINER IN GAU			
28	09/15/2005	CASE DOCKETED TO EXAMINER IN GAU			
27	02/01/2005	MAIL NOTICE OF RESCINDED ABANDONMENT			
26	01/31/2005	NOTICE OF RESCINDED ABANDONMENT IN TCS			
25	12/03/2004	PETITION TO REVIVE APPLICATION - GRANTED			
24	08/20/2004	PETITION ENTERED			
23	08/20/2004	WORKFLOW INCOMING PETITION IFW			
22	06/28/2004	MAIL ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
21	06/26/2004	ABANDONMENT FOR FAILURE TO RESPOND TO OFFICE ACTION			
20	11/19/2003	MAIL NOTICE OF INFORMAL OR NON- RESPONSIVE AMENDMENT			
19	11/15/2003	REFERENCE CAPTURE ON IDS			
18	11/15/2003	IFW AMENDED CASE PROCESSING COMPLETE			
17	10/27/2003	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
16	11/15/2003	DATE FORWARDED TO EXAMINER			
15.1	10/27/2003	INFORMAL OR NON-RESPONSIVE AMENDMENT AFTER EXAMINER ACTION			
15	10/27/2003	RESPONSE TO ELECTION / RESTRICTION FILED			
14	09/23/2003	MAIL RESTRICTION REQUIREMENT	157	-1	
13	09/17/2003	REQUIREMENT FOR RESTRICTION / ELECTION			
12	08/25/2002	RECEIPT OF ALL ACKNOWLEDGEMENT LETTERS			
11	06/17/2002	AFFIDAVIT(S) (RULE 131 OR 132) OR EXHIBIT(S) RECEIVED			

10	06/17/2002	PRELIMINARY AMENDMENT		
9	05/30/2002	PRELIMINARY AMENDMENT		
8	02/19/2002	INFORMATION DISCLOSURE STATEMENT (IDS) FILED		
7	04/16/2002	CASE DOCKETED TO EXAMINER IN GAU		
6	04/08/2002	APPLICATION DISPATCHED FROM OIPE		
5	04/03/2002	APPLICATION IS NOW COMPLETE		
4	04/01/2002	REFERRED BY L&R FOR THIRD-LEVEL SECURITY REVIEW. AGENCY REFERRAL LETTER GENERATED		
3	03/27/2002	IFW SCAN & PACR AUTO SECURITY REVIEW		
2	03/06/2002	IFW SCAN & PACR AUTO SECURITY REVIEW		
1	02/19/2002	INITIAL EXAM TEAM NN		

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EXPLANATION OF PTA CALCULATION

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